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Sarah Field
Speaker

May 2, 2003

Utah Radiation Control Board
168 North 1950 West
P.O. Box 144850
Salt Lake City, Utah 84114-4850

Re: Utah Final Application, Amended Agreement for Uranium Recovery Regulation,
January 2003

Dear Sir or Madam:

On January 2, 2003, Michael O. Leavitt, the Governor of the State of Utah, in a letter to the Chairman of the Nuclear Regulatory Commission, formally requested an amended agreement between the Nuclear Regulatory Commission (NRC) and the State of Utah, as authorized under Section 274 of the Atomic Energy Act of 1954, as amended. See 42 U.S.C. § 2021.

Utah's letter to the NRC was the cover letter to an extensive, multi-volume document entitled "Final Application, Amended Agreement for Uranium Recovery Regulation," authored by the Utah Division of Radiation Control, Department of Environmental Quality, dated January 2003. The document contains the "Utah Final Application for Uranium Mills and Mill Tailings" and numerous Appendices in support of the Final Application.

The Final Application contains a Policy Statement (pages 2-4). The Policy Statement refers to and quotes from a policy statement entitled "Elements of a Utah Agreement State Program for Uranium Mill Regulation" (April 26, 2000) (Final Application, Appendix A). The "Policy Statement" states:

The State of Utah recognizes that to remain viable at this time, uranium mills must be able to engage in activities other than milling conventional mined uranium ores, such as processing alternate feed materials for the recovery of uranium alone or together with other minerals. The State also recognizes its responsibility to ensure that all such activities are accomplished in a manner that is protective of human health and the environment.

I am concerned that the process used by the State in developing the Elements Paper and incorporating the Elements paper into the Final Agreement State Application was not a public process.

The State did not involve the interested tribal entities, community groups, and individuals in the development or review of the "Elements" paper. Information about this task force process was not presented to the public at the scoping meetings that were held

to obtain public comment on the State's proposal to seek an amended agreement. The great majority of the people that would be directly impacted by the "Policy Statement" were excluded from the stakeholder process used to develop that policy.

All the issues related to activities other than milling conventional uranium ores and the processing of "alternate feed materials" at licensed uranium recovery facilities were not considered by the task force. All of these issues were not considered by the Radiation Control Board.

All the issues have not been brought before the members of the communities being impacted.

All the issues should have been placed on the table, but were not.

The issues related to activities other than the milling of ore are extensive and complex, both technically and legally. There is not enough time in a Board meeting for a fair, complete, and effective consideration of the issues.

The Board must hold public hearings and accept written and oral testimony before coming to any determinations with respect a regulatory program related to activities other than milling conventional mined uranium ores at uranium recovery facilities, including the processing of "alternate feed materials."

Some important relevant issues that have not been properly addressed by the State of Utah in a public process include:

- The exact nature of such a regulatory program.
- How, specifically, will the State assure that such activities are accomplished in a manner that is protective of human health and the environment.
- Whether or not the State intends to permit the processing and disposal or direct disposal of mixed hazardous and low level radioactive waste at licensed uranium mills.
- Dubious statutory and regulatory authority for such activities.
- Question of the State's rulemaking authority for such a regulatory program.
- Relationship of such a program to the Resource Conservation and Recovery Act (RCRA) regulations and judicial interpretations of such regulations.
- Lack of information before the Board and the public regarding future, current, and past practices associated with the processing of feed material other than uranium ore at uranium mills in the State of Utah.
- Lack of any NRC and Environmental Protection Agency regulations that were promulgated contemplating activities other than milling of natural uranium and thorium ores.

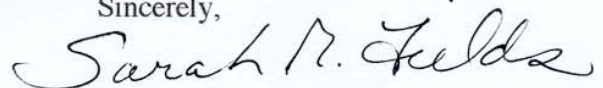
- Lack of either a programmatic or site-specific Environmental Impact Statement for such activities at uranium and thorium recovery facilities.
- Numerous associated contradictory federal policies and regulations.
- Need for public participation in the State of Utah's decision making process regarding the regulatory program for uranium mills.

CONCLUSION

Interested and impacted members of the public need to be able to ask questions and receive answers. Interested and impacted members of the public need to be able to present their concerns and opinions on these important issues. Interested and impacted members of the public need to have the Board fully and fairly consider and address all of the pertinent issues related to this aspect of the State's assumption of Agreement State authority.

Therefore, I request that the Board vote to open up the question of the activities other than milling conventional mined uranium ores at uranium mills in Utah (including the processing alternate feed materials) to a public process involving the presentation of written and oral public comments. This would involve a public hearing at White Mesa, the community nearest to the only uranium mill in Utah.

Sincerely,



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